**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Sri T.Venkateswarlu, S/o Sreenivasulu, Additional Junior Civil Judge, Pattikonda, YSR Kadapa District against the proceedings No.Roc.C3/640/2009, dt.08.02.2010 of the District Collector, Chittoor under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

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**TRIBAL WELFARE (CV.2) DEPARTMENT**

G.O.MS.No. 9 Dated: 07-02-2018

Read the following:

1. Proceedings of the District Collector, Chittoor, No.Roc.C3/640/2009, dt.08.02.2010.
2. Appeal petition filed by Sri T.Venkateswarlu S/o Sreenivasulu, Addl. Jr.Civil Judge Adoni, Kurnool District, dt:24.02.2010.
3. Govt.Memo.No.1447/CV2/2010, dated 26.03.2010.
4. From the District Collector, Chittoor, Lr.Rc.C3/7449/2010, dt:17.06.2010.
5. Govt.Memo.No.1447/CV2/2010, dated 31.03.2012, 05.11.2014, 24.11.2014, 24.02.2015, 11.03.2015, 25.04.2016, 05.12.2016 & 12.01.2017.
6. Written arguments filed by the appellant, through his Counsel before the then M(SWE&TWE) on 24.01.2017.
7. Govt.Memo.No.1447/CV2/2010, dated 17.06.2017.

**ORDER:**

In the reference 1st read above, the District Collector, Chittoor has issued orders canceling the ST –Yerukula Caste Certificate obtained from the then Mandal Revenue Officer, Piler in the year 1999 by Sri T.Venkateswarlu, S/o Sreenivasulu.

2. In the reference 2nd read above, Sri T.Venkateswarlu, S/o Sreenivasulu, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Chittoor. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, Chittoor and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Chittoor has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri T.Venkateswarlu, S/o Sreenivasulu.

4. The said Appeal Petition has been posted for hearing on 10.04.2012, 13.11.2014, 13.12.2014, 28.02.2015, 18.04.2015, 14.05.2016, 24.12.2016, 24.01.2017 & finally on 17.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th & 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 6th read above, the appellant has filed written arguments through his Counsel before the Appellate Authority in support of his ST-Yerukula community claim.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Chittoor and proceedings of the District Collector, Chittoor dated 08.02.2010, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that he belongs to ST-Yerukula community and due to non-examination of the witnesses, who have

**[P.T.O]**

furnished reports Tashsildar, Madanapally, dated 04.08.2009 and Tahsildar, Somala report dated 19.08.2009 and Tahsildar, dated 04.10.2009 and the appellant has lost invaluable right to cross examination of the witnesses. Further he has stated that the marriage with Smt. Rama Devi as one of the circumstances, ignoring the crucial fact that it was an inter-caste marriage and a certificate of Inter-caste was obtained shows that the order of the District Collector is totally illegal, arbitrary .

II. The District Level Scrutiny Committee has observed that the enquiry report of the RDO, Madanapalle and the Tahsildars concerned which reveled that, the appellant Sri Thammineni Venkateswarulu S/o Srinivasulu is neither a native (or) resident of RTC Nalalgunta of Piler Town, nor a resident of any of the habitations located in Piler village (or) Mandal and there is also no such family having the surname of "Thammineni" resided in the said locality, and the appellant though belongs to Medara community, he obtained the permanent caste certificate, mis-representing the facts and the Committee given opportunity many times to prove genuineness of his caste claim but he has evaded responding for the notices issued by the DLSC. Finally he has consented before the DLSC committee that he is not aware of his parents, blood relatives either from his paternal and maternal side and he is not aware of the traditions and customs of Yerukula caste and except School certificates there is no other evidences for caste. The school certificate cannot be taken as evidence for the caste as it is noted in school records basing on the declaration of the parents at the time of joining in School. Based on the findings of the DLSC, the District Collector has cancelled the appellant's caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that in order to ensure that the principles of natural justice are scrupulously followed, the appellant was given ample opportunity to file any records or documents in proof of his caste, but he failed to produce any such record. Basically heavy burden lies on the person who claims that he or she belongs to ST community, has to prove the same beyond doubt as per section 6 of Act 16 of 1993 and the failure to prove the same will always entail him for cancellation of the caste certificate issued earlier. The Tahsildar, Somala reported that Sri T. Srinivasulu who is said to be father of Venkateswarlu (appellant) is native of Peddaupparapalli village and belongs to Medara- BC Community. The paternal uncle and the cousins of the appellant also are residing in Peddaupparapalli Village of Somala mandal and they all obtained permanent caste certificates as Medara-BC. During the enquiry before the Tahsildar, Somala, the villagers of Somala and the cousins of the appellant Venkateswarlu have deposed that T. Srinivasulu father of the appellant is the native of Peddaupparapalli village and that he belongs to Medara –BC caste as he became old, he is residing in Peddaupparapalli village and getting old age pension from Govt. He is by nature a wanderer and leaves the village for months together. He left for Karnataka state and he was set to have lived with one Smt. Parvathamma without marriage with her. The factum of his giving birth to his son is not known to them. While so, Tahsildar, Piler after enquiry submits that the appellant the son of Srinivasulu was resident of Nallagunta of Piler Town and Mandal and obtained permanent caste certificate as ST-Yerukula from the then Mandal Revenue Officer, Piler in CR No.375/99 and secured "Judge Post" in judicial department on 25.09.1999. On the allegations against him about his caste, again enquiry was held by the Tahsildar of Piler on 04.10.2009 at RTC Nallagutta of piler town and the residents of the said area deposed

**[Contd.. on P.3]**

that they have been residing in that locality for 20 to 30 years, but they have not seen the appellant or his family members in that area and the majority of the residents of Nallagutta area are “Muslims”, “Vadde” and “Kamsali” caste. They never noticed the family having the surname of Tammineni and it does not relate to Yerukula caste to the best of their knowledge. The Tahsildar of Piler town said that Tammineni Venkateswarlu S/o Srinivasulu is neither a native nor resident of RTC Nallagutta of pileru town. All the documents produced by him are attested copies of school certificates which are generated based on the false information given by parent of the appellant at the time of his admission in school and the same was carried out throughout his study period. The said school certificates cannot be given any weightage as they are vitiated by fraud and malpractice.

V. Further it is observed that the purport of Judgment in 2001, 1- ALT Page 688 at para 19 that the witness examine during enquiry by DLSC shall be in the presence of the opposite party and he shall be given opportunity to cross examine the said witness. But, a lot of opportunity was given to the appellant who is bound to produce as per section 6 of A.P. Act 16 of 1993 and his failure to produce evidence to the effect that he/his parents belong to ST-Yerukula Community. The Collector is bound to cancel the caste certificate issued to him earlier under section 5 of the said Act. In fact, he (appellant) was given a lot of opportunity before DLSC and Collector also during enquiry. But the appellant for the first time falsely alleged that in his Writ Petition No.25466/2009, he was not given opportunity. The said plea by him is grossly incorrect. The judgment cited by him has no application to the case on hand. Similarly, the other decision cited by him as reported in AIR 1981 SC page 136 also doesn’t have application to the case on hand as the responsibility is cast on the appellant under section 6 of A.P. Act 16 of 1993 and the Government also gave several opportunities to the appellant to produce any record for substantiation fo his claim, but he failed to do so. In principle the Govt. is very liberal in receiving the documents at any stage of the appeal, but the appellant did not file any documents as his case is out and out false. The Government is of considered view that the appellant obtained caste certificate fraudulently by suppressing and mis-representing the facts before the Mandal Revenue Officer, Pileru for obtaining a false and bogus caste certificate as ST-Yerukula even though he belongs to Medara-BC community.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri T.Venkateswarlu, S/o Sreenivasulu, does not deserve any interference. Hence, Proceedings of the District Collector, Chittoor issued vide Roc. C3/640/2009, dt.08.02.2010, is hereby upheld and the Appeal Petition filed by Sri T.Venkateswarlu, S/o Sreenivasulu, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Piler deemed to be cancelled and the interim stay granted earlier stands vacated.

7. The District Collector, Chittoor is directed to take necessary consequential action in the matter.

**[Contd..on P.4]**

8. The records (containing Roc.C3/640/2009, dt.08.02.2010, pages CF: 1-443 & NF: 1-44) received from the District Collector, Chittoor through the reference 4th read above, are returned herewith in original to the District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**S.S. RAWAT**
**PRINCIPAL SECRETARY TO GOVERNMENT**

To
The District Collector, Chittoor
(with original records) (BY RPAD)

The MRO, Piler. Chittoor District .

Sri T. Venkateswarlu S/o Sreenivasulu,
Jr.Civil Judge, Pattikonda, YSR Kadapa.

Sri D. Kasim Saheb, Advocate,
H.No. 6-3-1247/322, Rajnagar, Opp: Raj Bhavan,
Near Hanuman Temple, Khairatabad, Hyderabad-500004.

The Home (Courts.A) Department.

The Registrar (Vigilance),
High Court of Andhra Pradesh, Hyderabad

**Copy to:**

The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary(SW&TW).

**// FORWARDED:: BY ORDER //**

**SECTION OFFICER**